

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CASEY CUNNINGHAM, et al.,

Plaintiffs,

v.

CORNELL UNIVERSITY, et al.

Defendants.

No. 1:16-CV-06525-PKC

DECLARATION OF SCOTT T. APKING

I, Scott T. Apking, of lawful age, declare as follows:

1. I am an attorney with Schlichter Bogard & Denton LLP, the law firm representing Plaintiffs in this case. I am licensed to practice in all Courts of the States of Illinois and Missouri and I am admitted to practice in numerous federal courts. If called as a witness, I could and would competently testify to the facts set forth below as I know them to be true based on my personal knowledge and review of the records and files maintained by Schlichter Bogard & Denton in the regular course of its representation of Plaintiffs in this case.

2. Attached hereto as Exhibit 1 are excerpts of the deposition of Wendy Dominguez taken on October 16, 2018.

3. Attached hereto as Exhibit 2 is a true and correct copy of a presentation by Innovest entitled Investment Menu Design and Considerations for Adding TIAA Proprietary Funds.

4. Attached hereto as Exhibit 3 is a true and correct copy of Exhibit 4 to the Expert Report of Wendy Dominguez.

5. Attached hereto as Exhibit 4 is a true and correct copy of Exhibit 6 to the Expert Report of Wendy Dominguez.

6. Attached hereto as Exhibit 5 is a true and correct copy of Innovest's response to the Request for Proposal dated October 4, 2012.

7. Attached hereto as Exhibit 6 is a true and correct copy excerpts from the Book entitled *The Management of Investment Decision*.

8. Attached hereto as Exhibit 7 is a true and correct copy of a letter to Participants.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Rebuttal Report of Wendy Dominguez dated September 26, 2018.

10. Attached hereto as Exhibit 9 is a true and correct copy of Retirement Plan Changes letter.

11. Attached hereto as Exhibit 10 are excerpts of the deposition of Dr. John Chalmers taken on October 5, 2018.

12. Attached hereto as Exhibit 11 is a true and correct copy of the MSCI World Index Fact Sheet from February 28, 2019.

13. Attached hereto as Exhibit 12 is a true and correct copy of *Sacerdote v. N.Y. Univ.*, No. 16-6284, Doc. 270 (S.D.N.Y. Apr. 5, 2018).

14. Attached hereto as Exhibit 13 is a true and correct copy of an e-mail exchange dated May 5, 2014 and produced by Captrust Defendant as CAPTR_0014867.

15. Attached hereto as Exhibit 14 are excerpts of the deposition of Dr. Gerald Buetow taken on October 12, 2018.

16. Attached hereto as Exhibit 15 is a true and correct copy of an e-mail exchanged dated May 5, 2014 and produced by Captrust Defendant as CAPTR_0014867

17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from Dr. Buetow's FidelityDamagesProduction Workbook, Mapping Tab Columns A-D.

18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from Dr. Buetow's TIAAdamagesproduction Workbook, Mapping Tab Columns A-D.

19. Attached hereto as Exhibit 18 is a true and correct copy of Dr. Buetow's Fidelity Mapping Workbook.

20. Attached hereto as Exhibit 19 is a true and correct copy of Dr. Buetow's Rebuttal Expert Report dated September 26, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 11, 2019.

/s/ Scott T. Apking
Scott T. Apking